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September 5, 2000

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COMMUNICATIONS SECTION
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WASHINGTON, DC 20554

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NEWARK NJ 07102-5397

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BY HAND

Magalie R. Salas, Esq.
Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: **Notice of Proposed Rulemaking
Amendment of Section 73.622(b)
Table of Allotments,
Digital Television Broadcast Stations
Miami, Florida**

CLIENT No. 23965-72755

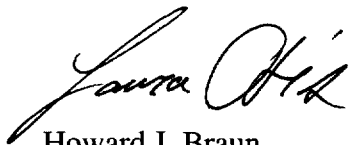
MM Docket No. 00-125 / RM-9908

Dear Ms. Salas:

On behalf of our client, James J. Chladek, licensee of Low Power Television Station WPMF-LP, Channel 31, Miami, Florida, we are filing an original and four copies of comments in the above-referenced rulemaking proceeding.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,



Howard J. Braun
Laura A. Otis

Enclosures

cc: See Certificate of Service

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.622(b)
Table of Allotments,
Digital Television Broadcast Stations
(Miami, Florida)

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MM Docket No. 00-125
RM-9908

To: Chief, Allocations Branch

COMMENTS

James J. Chladek ("Chladek"), licensee of Low Power Television Station WPMF-LP, Channel 31, Miami, Florida, by its attorneys and pursuant to Section 1.415(a) of the Commission's Rules, hereby opposes the above-captioned proposal by NBC Stations Management, Inc. ("NBC") to substitute DTV Channel 31 for DTV Channel 30 at Miami, Florida. As demonstrated below and in the attached Engineering Statement, NBC's "Petition for Rulemaking to Amend the DTV Table of Allotments" ("*Petition*"), filed on August 7, 1998, is defective because it:

- (a) Lacks the requisite technical detail necessary to properly evaluate and meaningfully comment on the proposal, and
- (b) Fails to offer protection to WPMF-LP's Class A service contours.

Accordingly, the Commission should deny NBC's proposal.

In its *Petition*, NBC requests that "the same reference ERP, HAAT and geographic reference coordinates specified for the current DTV channel 30 allotment be employed for the

DTV channel 31 allotments.”¹ In the same breath, however, NBC states that it does not intend to build its DTV facility, Station WTVJ(TV), pursuant to these parameters. Instead, without providing the requisite technical details to support its proposal, NBC states simply that it wants to locate the facility “at the existing WFOR-TV transmitter site.”² As shown in the attached Engineering Statement, a rulemaking decision based on NBC’s vague proposal would be highly inappropriate and patently unfair to Chladek.

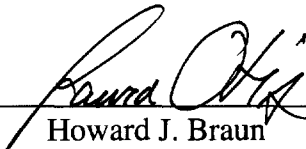
The attached Engineering Statement further demonstrates that NBC’s proposal is defective because it fails to offer interference protection to the Class A service contours of WPMF-LP, in violation of Section 73.623(c)(2) of the Commission’s Rules. Accordingly, Chladek urges the Commission to deny NBC’s proposal.

In light of the foregoing, Chladek requests that Commission action be consistent with the foregoing premises.

Respectfully submitted,

James J. Chladek

By: _____


Howard J. Braun
Laura A. Otis

ROSENMAN & COLIN LLP
805 15th Street, N.W., 9th Floor
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Its Attorneys

September 5, 2000

¹ NBC *Petition*, at 2.

² Id

ENGINEERING STATEMENT
IN SUPPORT OF COMMENTS OPPOSING
PROPOSED AMENDMENT TO THE TABLE OF ALLOTMENTS
AMENDMENT OF SECTION 73.622(b) MM DOCKET NO. 00-125
DIGITAL TELEVISION BROADCAST STATION WTVJ
ADD CHANNEL 31 DELETE CHANNEL 30
MIAMI, FLORIDA

AUGUST 2000

**ENGINEERING STATEMENT
IN SUPPORT OF COMMENTS OPPOSING
PROPOSED AMENDMENT TO THE TABLE OF ALLOTMENTS
AMENDMENT OF SECTION 73.622(b) MM DOCKET NO. 00-125
DIGITAL TELEVISION BROADCAST STATION WTVJ
ADD CHANNEL 31 DELETE CHANNEL 30
MIAMI, FLORIDA**

AUGUST 2000

SUMMARY

The following engineering statement has been prepared on behalf of James J. Chladek ("Chladek"), licensee of LPTV station WPMF-LP, Channel 31, Miami, Florida. The Petition for Rule Making filed by NBC Stations Management, Inc. ("NBC"), licensee of WTVJ(TV), Miami, Florida, to delete DTV Channel 30, and add DTV Channel 31, would require termination of the current WPMF-LP operation. This is true because continued operation of WPMF-LP would be expected to result in interference to WTVJ Channel 31 DTV service in violation of *Section 73.623(c)(2)* of the Commission's Rules. Further, operation of WTVJ DTV on Channel 31 would be expected to violate *Section 73.623(c)(2)* in terms of interference caused to WPMF-LP.

ARGUMENT

The NBC petition asks the Commission to amend the Table of Allotments by substituting DTV Channel 31 for DTV Channel 30 while employing the current Channel 30 allotment coordinates, antenna radiation center AMSL and ERP. However, NBC clearly states its intent not to build at the allotment coordinates but instead to build at the site of WFOR-TV some 53.7 kilometers north of the allotment site.

The fact that NBC plans to implement a facility wholly different than that proposed in its Petition for Rule Making is unprecedented and patently unfair to Chladek. At this time it appears that there are no alternative Channels for use by WPMF-LP. Chladek is barred from ascertaining if it can propose Channel 30 operation by the fact that the actual Channel 31 WTVJ facility is without description in the Commission Rule Making record and Chladek believes that the Commission should not act on the NBC Petition until the exact NBC technical facility characteristics are made known as part of the Rule Making proceeding.

CLASS A PROTECTION

In the Report and Order in MM Docket No. 00-10, Establishment of a Class A Television Service, Released April 4, 2000, paragraph 71, it is stated, "where interference protection to Class A stations is required, full-service DTV proposals must protect the Class A service contours in accordance with the D/U ratios in *Section 73.623(c)(2)* of the DTV rules for "DTV into analog TV" protection. ... Parties filing petitions to amend the DTV table, where required to protect Class A stations, must specify reference facilities that meet the above criteria." It is **Chladek's** belief that since NBC has made no technical showing in the Rule Making concerning its proposed use of the WFOR-TV site location that it must now protect WPMF-LP since its Class A grant predated any showing for WTVJ at the WFOR-TV site location.

It is noted that paragraphs 61-64 of the Report & Order do give DTV stations the flexibility to maximize when "technical problems" are found to insure replication of the NTSC Service area. **Chladek** questions whether NBC's proposed move to the WFOR-TV tower meets this criteria. Or, is the proposed move to the WFOR-TV tower actually an upgrade which is beyond the meaning and scope of the Report and Order.

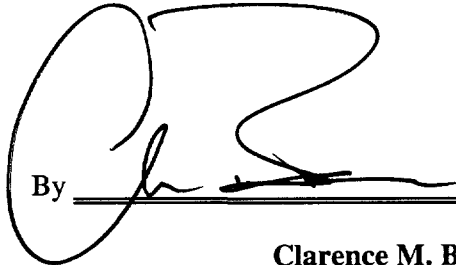
RELIEF REQUESTED

Chladek requests the following relief with respect to the NBC Petition for Rule Making:

1. That NBC incorporate a proposed technical facility, utilizing the WFOR-TV site, into the Rule Making Record so that it is clear as to what is being proposed.
2. That WPMF-LP be protected to the interference and service levels now associated with its licensed Channel 31 facility with WPMF being relocated to Channel 30, or:
3. That NBC will work with **Chladek** to locate a viable alternative channel for continued Class A operation.

CONCLUSION

The foregoing was prepared on behalf of **James J. Chladek** by Clarence M. Beverage of *Communications Technologies, Inc.*, Marlton, New Jersey, whose qualifications are a matter of record with the Federal Communications Commission. The statements herein are true and correct of his own knowledge, except such statements made on information and belief, and as to these statements he believes them to be true and correct.

By  _____

Clarence M. Beverage
for Communications Technologies, Inc.
Marlton, New Jersey

SUBSCRIBED AND SWORN TO before me,

this 31st day of August, 2000,


 _____, NOTARY PUBLIC

ESTHER G. SPERBECK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 15, 2002

CERTIFICATE OF SERVICE

I, Laura A. Otis, an attorney at Rosenman & Colin LLP, hereby certify that a copy of the foregoing Comments of James J. Chladek was served by first-class mail, postage-prepaid, to the following on this 5th day of September, 2000:

Diane Zipursky
National Broadcasting Company, Inc.
1229 Pennsylvania Avenue, NW
11th Floor
Washington, DC 20004



Laura A. Otis